Senate Study Bill 3059 - Introduced

SEN	ATE FILE
вч	(PROPOSED COMMITTEE
	ON JUDICIARY BILL BY
	CHAIRPERSON ZAUN)

A BILL FOR

- 1 An Act relating to the expungement of records of certain
- 2 misdemeanor offenses.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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- 1 Section 1. NEW SECTION. 901C.3 Misdemeanor expungement.
- Upon application of a defendant convicted of a
- 3 misdemeanor offense, the court shall enter an order expunging
- 4 the record of such a criminal case, as a matter of law, if
- 5 the defendant has established that more than eight years have
- 6 passed since the date of the conviction, and the defendant
- 7 has not been subsequently convicted of or granted a deferred
- 8 judgment for any criminal offense, other than a simple
- 9 misdemeanor conviction under chapter 321 or of a similar local
- 10 ordinance.
- 11 2. All court costs, fees, fines, and restitution and other
- 12 financial obligations ordered by the court or assessed by the
- 13 clerk of the district court have been paid.
- 3. An expungement under this section shall not be entered
- 15 for any of the following misdemeanor convictions:
- 16 a. A conviction under section 123.46.
- 17 b. A simple misdemeanor conviction under section 123.47,
- 18 subsection 3.
- 19 c. A conviction for dependent adult abuse under section
- 20 235B, 20.
- 21 d. A conviction under section 321.218, 321A.32, or 321J.21.
- 22 e. A conviction under section 321J.2.
- 23 f. A conviction for a sex offense as defined in section
- 24 692A.101.
- g. A conviction for involuntary manslaughter under section
- 26 707.5.
- 27 h. A conviction for assault under section 708.2, subsection
- 28 3.
- 29 i. A conviction under section 708.2A.
- j. A conviction for robbery in the third degree in violation
- 31 of section 711.3A.
- 32 k. A conviction under chapter 717C.
- 33 1. A conviction under chapter 724.
- 34 m. A conviction for prostitution under section 725.1,
- 35 subsection 1, if the offender is under eighteen years of age.

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- 1 n. A conviction under chapter 726.
- 2 o. A conviction under chapter 728.
- 3 p. A conviction under chapter 901A.
- 4 q. A conviction under prior law of an offense comparable to
- 5 an offense enumerated in this subsection.
- 6 4. A person shall only be allowed to apply for an
- 7 expungement of a record under this section one time in
- 8 the person's lifetime. However, the one application may
- 9 request the expungement of records relating to more than one
- 10 misdemeanor offense if the misdemeanor offense arose from the
- 11 same transaction or occurrence.
- 12 5. Notwithstanding section 692.2, after receipt of
- 13 notice from the clerk of the district court that a record of
- 14 conviction has been expunged under subsection 1, the record
- 15 of conviction shall be removed from the criminal history data
- 16 files maintained by the department of public safety if such a
- 17 record was maintained in the criminal history data files.
- 18 6. This section applies to a misdemeanor conviction that
- 19 occurred prior to, on, or after July 1, 2018.
- 20 EXPLANATION
- 21 The inclusion of this explanation does not constitute agreement with
- 22 the explanation's substance by the members of the general assembly.
- 23 This bill relates to the expungement of records of certain
- 24 misdemeanor offenses.
- 25 The term "expunged" means the court's criminal record with
- 26 reference to a deferred judgment or any other criminal record
- 27 has been segregated in a secure area or database which is
- 28 exempted from public access.
- 29 A person shall not receive an expungement pursuant to the
- 30 bill unless all court costs, fees, fines, and restitution and
- 31 other financial obligations ordered by the court or assessed by
- 32 the clerk of the district court have been paid.
- 33 The bill provides that upon the application of a defendant
- 34 convicted of a misdemeanor, the court shall enter an order
- 35 expunging the record of such criminal case, as a matter of

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- 1 law, if the defendant has established that more than eight
- 2 years have passed since the date of the conviction, and the
- 3 defendant has not been subsequently convicted of or granted a
- 4 deferred judgment for a criminal offense, other than a simple
- 5 misdemeanor conviction under Code chapter 321 or of a similar
- 6 local ordinance.
- 7 The bill does not apply to the following misdemeanor
- 8 offenses: simple misdemeanor convictions under Code sections
- 9 123.46 (consumption or intoxication in public place) and
- 10 123.47(3) (alcohol consumption by persons under legal
- 11 age), because expungement procedures already exist for both
- 12 offenses; convictions for dependent adult abuse under Code
- 13 section 235B.20; convictions relating to operating a motor
- 14 vehicle with an invalid driver's license under Code sections
- 15 321.218, 321A.32, or 321J.21; convictions for operating while
- 16 intoxicated under Code section 321J.2; convictions of a sex
- 17 offense as defined in Code section 692A.101; convictions for
- 18 involuntary manslaughter under Code section 707.5; convictions
- 19 for assault involving a dangerous weapon under Code section
- 20 708.2(3); convictions for domestic abuse assault under Code
- 21 section 708.2A; convictions for robbery in the third degree
- 22 under Code section 711.3A; convictions under Code chapter 717C
- 23 (bestiality); convictions under Code chapter 724 (weapons);
- 24 aggravated misdemeanor convictions under Code section 725.1(1)
- 25 (prostitution) if the offender is under 18 years of age
- 26 because expungement procedures already exist for this offense;
- 27 convictions under Code chapter 726 (protections of the family
- 28 and dependent persons); convictions under Code chapter 728
- 29 (obscenity); convictions under Code chapter 901A (sexually
- 30 predatory offenses); any conviction that includes a dangerous
- 31 weapon, neglect, or abuse of another person as an element of
- 32 the offense; and any conviction under prior law of an offense
- 33 comparable to an offense enumerated in the bill.
- The bill prohibits a person from applying more than once
- 35 for an expungement of the person's record. However, the one

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- 1 application may request the expungement of records relating to
- 2 more than one misdemeanor offense if the misdemeanor offenses
- 3 arose from the same transaction or occurrence.
- 4 The bill also provides that after receipt of notice from the
- 5 clerk of the district court that a record of conviction has
- 6 been expunded, the record of conviction shall be removed from
- 7 the criminal history data files maintained by the department of
- 8 public safety if such a record was maintained in the criminal
- 9 history data files.
- 10 The bill applies to misdemeanor convictions that occur prior
- 11 to, on, or after July 1, 2018.